

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF FLORIDA

ORLANDO DIVISION

In re:

NIEVES, FRANCISCO J.

Case No.: 12-bk-07331

NIEVES-SOLIS, SHIRLEY

Debtors /

**VERIFIED MOTION FOR VALUATION OF COLLATERAL AND ALLOWING
BALANCE OF CLAIM OF FAIRWINDS FEDERAL CREDIT UNION (CLAIM NO. 3-1)
AS GENERAL UNSECURED CLAIM**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection or other matter without further notice or hearing unless a party in interest files an objection within thirty (30) days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of Court at 135 W. Central Blvd., Suite 950, Orlando, FL 32801 and serve a copy on the Debtor's attorney, Chmari L. Anderson, P.O. Box 3604, Orlando, FL 32802.

If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing and may grant the relief requested.

COMES NOW Debtors, FRANCISCO J. NIEVES & SHIRLEY SOLIS-NIEVES, by and through their undersigned counsel pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rule 3012, and moves this Honorable Court for the entry of an order for valuation of secured claim

and allowing the balance as an unsecured claim as to the claim of Captital One (hereafter “Creditor”) and the Debtor states as follows:

1. The Debtors owe Creditor the sum of \$14618.00, which sum is secured by a lien on property of the Debtors described as: 2008 Suzuki Hayabuas Motorcycle
VIN JSIGX72A382112097
2. The Debtors believe the fair market value of the vehicle at the time of filing to be \$6,260.00.
3. The balance of any claim of the Creditor is allowable only as a general unsecured claim.
4. Creditor’s claim requests principal to be paid at the interest rate of 6.75%.
5. Debtor believes the interest rate to be unreasonable and request the court to allow the claim to be paid at 5.25% on the Creditor's secured claim.

WHEREFORE, Debtor, by and through their undersigned counsel, requests this Honorable Court to determine that the fair market value at the time of filing of the vehicle is \$6,260.00 at the rate of interest 5.25%, and the creditor has a secured interest in the collateral to the extent of that fair market value and that the balance of the debt be allowed as a general unsecured claim

/s/FRANCISCO J. NIEVES

FRANCISCO J. NIEVES

Debtor Joint Debtor

/s/SHIRLEY SOLIS-NIEVES

SHIRLEY SOLIS-NIEVES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Strip Lien has been furnished on July 28th, 2011 by Electronic Notice or Regular U.S. Mail to: Debtors, 876 Princeton Drive, Clermont, FL 34711; Chapter 13 Trustee, Laurie K. Weatherford, PO Box 3450, Winter Park, FL 32792; Creditor, Capital One, P.O. Box 30285, Salt Lake City, UT 84130.

/s/Chmari L. Anderson

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